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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,350	06/23/2006	Masahiro Murakawa	KUB-005	3367

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ALEXANDRIA, VA 22314-2848

EXAMINER

VO, CECILE H

ART UNIT

PAPER NUMBER

2169

MAIL DATE

DELIVERY MODE

08/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/584,350

Applicant(s)

MURAKAWA ET AL.

Examiner

CECILE VO

Art Unit

2169

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office Action is in response to the Applicants' amendment received on 05/30/2008.

Claim Status

2. Claims 1-5 are cancelled.
3. Claims 6-9 are new.
4. Claims 6-9 are currently presenting for examination, with claim 6 being independent.

Claim Objections

5. Claims 2-5 are cancelled. Therefore, objections to the claims are withdrawn.

Claim Rejections – 35 USC §112

6. Claims 1-5 are cancelled. Therefore, rejections to the claims are withdrawn.

Response to Arguments

7. Applicant's amendments with respect to claims 6-9 have been considered and are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 6-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 6 recites "*a genetic algorithm*", in lines 3-4, and "*a local search method*", in line 6, are unclear to the examiner. The specification does not define these limitations. Therefore, the limitations that belong to "*genetic algorithm*" and "*a local search method*" in the claim(s) will not be addressed since the examiner unable to determine the metes and bounds of the limitations.

Claims 7-9 are rejected for the same reason, due to their dependence on the above rejected claim.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 6 and 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "*the genetic algorithm processing*" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 also recites "*said plurality of processing devices being respectively configured to individually and simultaneously execute the genetic algorithm and to, a predetermined period prior each local search*" is unclear to what Applicant is claiming and the one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 8 recites the limitation "*the processing*" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "*the local search process*" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatakeyama, US Patent Number 6,542,468 B1.

Regarding claim 6, Hatakeyama discloses a parameter adjusting device comprising:

a plurality of processing devices which comprise parameter regulation devices configured to optimize parameters using a genetic algorithm (e.g. the system comprises estimation individuals to be used for estimating a response time for each of clients, and makes each of the plurality of estimation individuals evolve into an estimation individual which can make a more preferable estimate by using a genetic algorithm, see abstract, lines 10-15);

said plurality of processing devices being configured to search using a local search method and to distribute the search there among (e.g. upon receipt of the request, the estimation information managing unit searches an estimation individual table and an actual response time table, col. 10, lines 59-62. Wherein, the estimation individual table and the actual response time table can be referenced and updated by each of the clients, col. 11, lines 2-3);

said plurality of processing devices being respectively configured to individually and simultaneously execute the genetic algorithm and to, a predetermined period prior each local search, be such that each processing device, in accordance with the genetic algorithm processing, based on predetermined numbers, send individuals of a genetic population to others of said plurality of processing devices and further configured to have a migration arrangement for receiving the predetermined numbers (e.g. with the GA, an estimation individual corresponding to an ever-changing network environment is prepared by alternating the generation of the estimation individual each time the

network environment change information is obtained, col. 9, lines 47-54).

Regarding claim 7, Hatakeyama further discloses, the each processing device comprises a CPU of a computer or server including a plurality of CPUs in which said genetic algorithm is installed (Fig. 1A – 1B).

Regarding claim 8, Hatakeyama further, search processing control means configured for collecting interim results of searches from the processing devices assigned to the processing by the genetic algorithm (e.g. the path selecting method, col. 22, lines 57-63).

Regarding claim 9, Hatakeyama further, a selected one of the plurality of processing devices is configured to determine if all of the searches conducted by the plurality of processing devices have been completed and to terminate the local search process in response to completion of all local searches (col. 18, lines 33-41).

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CECILE VO whose telephone number is (571)270-3031. The examiner can normally be reached on Mon - Thu (9AM - 5:00PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ali can be reached on 571-272-4105. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 22, 2008

/Cecile Vo/
Examiner
Art Unit 2169

/H. Q. P./
Primary Examiner, Art Unit 2169

/Mohammad Ali/
Supervisory Patent Examiner, Art Unit 2169